UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

25 FEB 2008

John Snowdon
U.S. Department of Transportation
Federal Highway Administration
100 Centennial Mall North
Lincoln, Nebraska 68508

Dear Mr. Snowdon:

Re: Proposed Improvement to Nebraska Highway 35 Corridor from Norfolk to South Sioux City, in Funding, Madison, Stanton, Wayne, Dixon, and Dakota Counties, Nebraska

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the proposed expansion of Nebraska Highway 35 to a four-lane highway between the Cities of Norfolk and South Sioux City, Nebraska. Our review is provided pursuant to the National Environmental Policy Act 42 U.S.C. 4231, Council on Environmental Quality regulations 40 C.F.R. Parts 1500-1508, and Section 309 of the Clean Air Act. The DEIS was assigned the CEQ number 20080006.

Based on our overall review and the level of our comments, the EPA has rated the DEIS for this project EC-2 (Environmental Concerns – Insufficient Information). A copy of EPA's rating descriptions is provided as an enclosure to this letter.

The EC-2 rating is based on insufficient information related to wetland impacts and other potential human health and environmental impacts. Please see EPA's detailed comments which are also attached to this letter.

Please contact Dr. Delia Garcia at (913) 551-7262, or Joe Cothern (913) 551-7148, if you have any questions or concerns regarding this letter.

Sincerely,

Ronald Hammerschmidt, Ph.D.
Director
Environmental Services Division

DETAILED COMMENTS

Federal Highway Administration
Proposed Expansion Highway 35 Corridor from Norfolk to South Sioux City, Nebraska

Traffic Analysis

Under the no build alterative (year 2035), the projected average daily traffic only exceeds NDOR's two-lane highway guidelines in sub-corridors a, and portions of c and d. Average daily traffic is not exceeded in portions of sub-corridors c and d, nor within sub-corridors e, f, and g. Under the build alternatives, however, higher traffic volumes are identified for all sub-corridors. The higher traffic forecasts are made under the assumption that the four-lane corridor would attract additional use of the N-35 corridor. EPA recommends additional discussion on this assumption of induced traffic.

Noise

Analysis conducted utilizing FWHA Highway Noise Prediction Model, identified multiple instances in which the noise abatement criteria (NAC) would be approached or exceeded. Any noise abatement or attenuation, however, was dismissed based on NDOR'S Noise Analysis Abatement Policy which concluded that it was not reasonable due to cost. The noise attenuation analysis, however, only looked at the cost of attenuation using hard surfaces such as concrete walls. Have less expensive options such as vegetation been considered?

Water Quality

The DEIS dos not identify specific streams which will be culverted, but the possibility of that practice is mentioned several times throughout the DEIS. The elimination of a stream's floodway (i.e. re-routing streams through culverts), regardless of size, creates long-term impacts to the ecological function of the stream. Re-connecting previously impacted streams with their flood plain, however, is advocated by EPA.

If stream sections have to be relocated, we recommend that the new channels be engineered to mimic the original channel as much as possible (i.e. meandering streams, pool and riffle habitat). Channelizing streams decreases the ecological value of the stream reach by eliminating suitable habitat and creating excessive flows which can lead to stream bank destabilization further downstream. Channelization practices tend to make stream beds more uniform, eliminating the numerous bends, riffles, runs, pools, and varied flows which support healthier and more diversified plant and animal communities.

South Logan Creek and the Elkhorn River are listed in Nebraska's 303(d) list for failing to meet the designated beneficial uses as listed in Title 117 – Nebraska Surface Water Quality Standards. Portions of the impaired segments of these rivers are within the area identified in the DEIS as the study area. The impact of the project on these impaired waterways should be more thoroughly analyzed and presented in the final EIS.

Wetlands

We understand the desire to minimize impacts to farmlands and landowners by trying to maintain the alignment as close as possible to section lines; however, compliance with section 404 of the Clean Water Act may conflict with this desire. There are many instances were a slight shift to the alignment of N-35 to the north or the south would minimize impacts to wetlands. Wetland impacts can be mitigated but many studies have demonstrated that created wetlands do not function as effectively as natural wetlands. Even in highly modified environments, wetlands provide important functions such as removal of excessive nutrients and flood attenuation. EPA's concerns may be abated with additional information to be developed in the 404 (b)(1) analysis, which should be presented in the Final EIS.

Wildlife / Aquatic Life

The DEIS makes generalizations in respect to the species (both aquatic and terrestrial life) impacted and their ability to recuperate from impacts. What are the bases for these assumptions? Please cite references utilized to assume that any aquatic resources impacted during construction will return to near pre-project level (i.e. pg. 3-66).

The N-35 realignment would fragment various forested habitats, which might provide important roosting, feeding, and nesting habitat for various species of migratory birds. Habitat fragmentation leads to decreased nesting success among many species of birds due to increased depredation rates, decreased foraging habitat, and changes in microclimate. Thus, habitat fragmentation should be avoided as much as possible. We suggest that the U.S. Fish and Wildlife Service and the Nebraska Game and Parks Commission be consulted prior to, and during construction.

The importance of the fish species located within the study area and the seasonality of flow regimes is downplayed throughout the DEIS. The fish are presumed common throughout Nebraska, and thus the loss of some are not expected to affect the viability of regional populations (pg. 3-62). This analysis, however, fails to take into account that local populations of fish provide a food source for many species of birds within the impacted area and fish downstream from the impacted area. Seasonal-stream flows provide important ecological functions for various species of aquatic and terrestrial species. Furthermore, even small streams provide important water quality functions.

Cumulative Impacts

A cumulative impacts discussion should be included in the document to address potential water impacts due to past, present, and reasonably foreseeable future projects in the area. For example, it is predicted that the close proximity of Hubbard to the Sioux City metro area would entice residents to move to Hubbard which would lead to more residential development within Hubbard. What is the impact of increased residential development within Hubbard on the environment?